

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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J.C. McCRARY, JR.,

Plaintiff,

-against-

ORDER
CV 06-3048 (SJF)(ARL)

POLICE OFFICER BRANDON HILLMAN, et al.,

Defendants.

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LINDSAY, Magistrate Judge:

By letter dated October 3, 2006, the County defendants requested an additional sixty days to respond to the complaint served on the defendants on October 2, 2006. Upon receipt of the letter, the court reviewed the docket sheet and noticed that the plaintiff had filed a motion entitled “Leave to Amend Complaint Asserting Lack of Knowledge of Facts at time of Original Complaint,” filed on August 31, 2006.¹ Because it was not clear from the parties’ submissions whether the complaint served on the County defendants was the original complaint, the Amended Complaint or the Second Amended Complaint, or whether the plaintiff opposed the County defendants’ request for an extension of time to answer or move with respect to the complaint(s), the court directed the parties to meet and confer and advise the court of their respective positions on the applications.

On October 5, 2006, the parties met at the Nassau County Correctional Center. After the meeting, counsel for the defendants advised the court that the parties had agreed to the following: (1) to consider the plaintiff’s Complaint and Amended Complaint as one pleading, (2) the plaintiff would withdraw his Second Amended Complaint and (3) the defendants’ time to answer would be

¹The court notes that the same motion was docketed twice. See docket nos. 8 and 9.

extended by sixty days. The parties' agreement was thereafter So Ordered by the court. Now, by letter dated October 5, 2006, but received by the court on October 10th, the plaintiff contends that it is his understanding that the defendants will answer all allegations in the complaints, including the Second Amended Complaint.

Although the court has no doubt that the plaintiff changed his mind after the meeting, because of his *pro se* status, the court will permit the plaintiff to submit a motion to amend the complaint for a second time on or before November 3, 2006. The plaintiff must serve and file the motion along with a proposed Second Amended Complaint that contains all of the new allegations, as well as the allegations contained in the initial Complaint and the Amended Complaint. Upon receipt, the defendants shall notify the court whether or not they intend to oppose the Second Amended Complaint. If the defendants do oppose the motion, opposition shall be filed by November 17, 2006. The defendants time to answer or move with respect to the complaint will be set by the court after it has ruled on the plaintiff's motion to amend.

Dated: Central Islip, New York
October 12, 2006

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge